

REMARKS

The application is believed to be in condition for allowance for the reasons set forth below.

Claims 1, 6-62, 64 and 65 are pending in the application. Claims 6-61 are withdrawn from consideration as being directed to a non-elected species.

Claims 1, 64 and 65 were rejected as unpatentable over KATO et al. 6,134,048 in view of Austrian Patent Publication No. AT 000307 (AT-307) and KAWAMURA 6,671,087. That rejection is respectfully traversed.

Independent claim 1 recites at least one optical element that is distinct from the objective lens and the eyepiece and that is movable along a curved guide so as to follow a curved path.

The position set forth in the Official Action is that KATO does not disclose a curved path/guide. KAWAMURA is offered for this feature with the Official Action concluding that it would have been obvious to incorporate the curved path/guide of KAWAMURA into the system of KATO to prevent fatigue and feelings of unease.

This conclusion is believed to be untenable at least for the following reasons.

First, modifying KATO in the manner suggested disregards the claimed invention as a whole.

The Federal Circuit has held that in determining the differences between the prior art and the claims, the question under 35 USC 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

In KATO, the movable elements are either the objective lenses or the eyepieces. As disclosed on column 10, lines 9-16 of KATO, focusing is achieved by moving the whole objective system or whole eyepiece system, or possibly part of the objective system or part of the eyepiece system. In any event, whether all or part of the eyepiece and objectives are moved, nevertheless it is still the eyepiece or objectives that are moved. KATO does not disclose moving optical elements that are distinct from the objective lenses and the eyepieces.

KAWAMURA only has a single pair of lenses 2, 3 that serve to magnify a display panel 5, 6. Lenses 2, 3 are movable along curved paths G1 and G2.

KAWAMURA does not disclose at least one optical element that is distinct from the objective lens and the eyepiece and that is movable along a curved guide so as to follow a curved path as recited. Accordingly, one of ordinary skill in the art would not look to the single lens system of KAWAMURA in an attempt to improve upon a multi-lens system having objectives and eyepieces as disclosed by KATO.

Moreover, as KAWAMURA is directed to a single pair of lenses, KAWAMURA does not disclose placing the curved path (of the single pair of lenses) to cross an internal beam path between an objective lens and an eyepiece as required to meet the limitations of claim 1 and thus would not provide guidance to KATO as to this feature.

Further, KAWAMURA is directed to a virtual system for producing a virtual image by minimizing the separation between left and right images, which are pictures on display panels 5, 6. In contrast, KATO is directed to viewing actual objects and is unrelated to viewing virtual objects.

In view of the different objectives of the systems of KATO and KAWAMURA, and the different structure, placement and number of lenses of these systems, there would have been no motivation to combine these references in the first instance.

In any event, selecting only the curved guide of KAWAMURA disregards the invention as a whole. The present invention is related to a vision aid for viewing an actual object and having a lens system that includes eyepieces, objective lenses and an optical element between the eyepiece and objective lens that is distinct therefrom and that is structured and arranged to match parallaxes. KAWAMURA does not provide guidance as to such structure and addresses problems related to a virtual system and is not pertinent to the problems addressed by the present invention.

Thus, when the claimed invention is considered as a whole, the recited vision aid would not have been obvious to those skilled in the art.

Second, the motivation offered in the Official Action is insufficient to combine the references.

The motivation of preventing fatigue and feelings of unease are based on the virtual system of KAWAMURA. Fatigue is caused by an unbalance between a left image and a right image displayed on left and right display panels. Minimizing the separation between images prevents fatigue.

In KATO, there is a single image perceived by the left and right eyes. As KATO has a single image, KATO does not have the problem of fatigue and thus, would not seek to prevent fatigue caused by an unbalance between two images.

Likewise, the eyes looking at two virtual images cause the feelings of unease. KAWAMURA prevents unease by offering sight of the outside simultaneously with the displayed images.

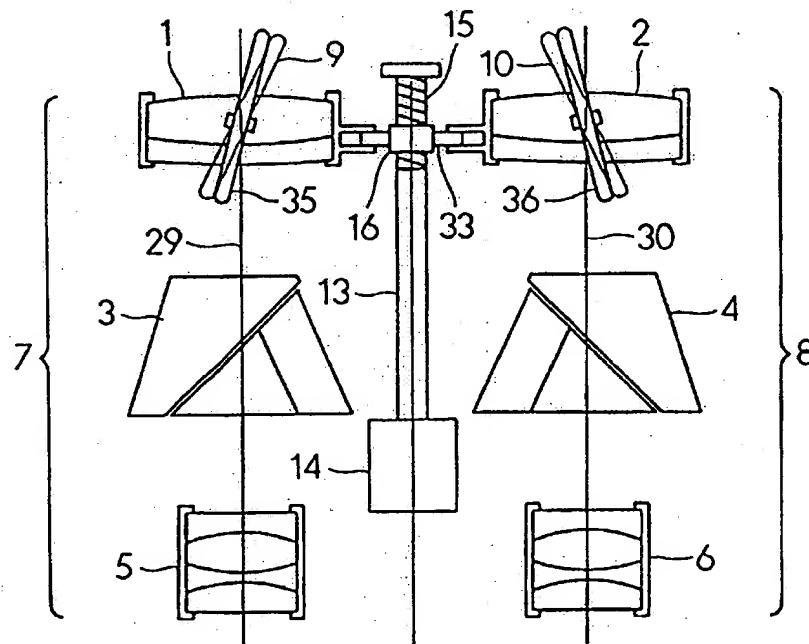
In KATO, there is no feeling of unease, because the user is neither looking at a virtual image nor a displayed image.

Since fatigue and uneasiness are part of a virtual system and not pertinent to the system of KATO, one of ordinary skill in the art would not have been motivated to combine the references in the manner suggested.

Third, based on the different structures of KATO and KAWAMURA, there is no reasonable expectation of success of the modified KATO.

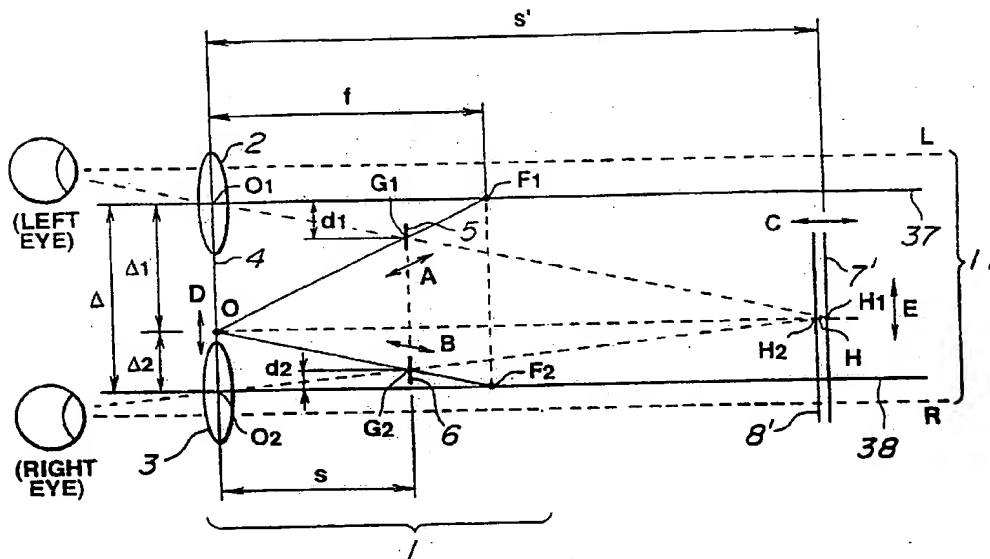
As seen in Figure 1A of KATO, reproduced below, the optical axes of an eye of a person are parallel (looking through eyepieces 5, 6 to objectives 1, 2).

FIG.1A



In contrast, the optical axes of an eye of a person using the KAWAMURA device are inclined with respect to each other. See Figure 1 for example, reproduced below.

FIG.1



There is no reasonable expectation that the lenses of KAWAMURA would adjust parallaxes in a lens system having an internal beam path between an eyepiece and an objective, when such lenses cross the internal beam path.

AT-307 is only offered for the disclosure of a means for changing a magnification factor. AT-307 does not overcome the shortcomings of KATO in view of KAWAMURA set forth above.

Moreover, based on the incompatibility between the system of KATO, which is used to change the focus and the magnification system of AT-307, one of ordinary skill would not have been motivated to combine these references in the manner suggested.

Specifically, if the objective lens of KATO were replaced by the zoom lens of AT-307 as suggested in the Official

Action, the picture would not be in focus when the zoom factor is changed and vice versa, because the focus would not be adapted to the zoom objective.

KATO teaches changing the focal length by displacing the objective lens with respect to a pertinent eyepiece. However, there is no instance when the enlargement (zoom) can be selected in this same way at the same time. This is because the inherent focal length of the objective lens is varied for the purpose of changing the enlargement and the distance between the eyepiece and the objective lens is changed to adjust the focal length. Accordingly, changing the enlargement would lead to undesirably poor image quality for a constant eyepiece-objective lens distance. Alternatively, it would not be possible to maintain a given zoom factor when the objective lenses are moved to focus the picture.

Thus, contrary to the assertion in the Official Action, one of ordinary skill in the art would not have been motivated to add a means for changing the magnification factor as taught by AT-307 in the system of KATO, because such device would not function properly in the system of KATO.

In view of the above, claim 1 and claim 64, which depends therefrom are believed patentable over the proposed combination of references.

Independent claim 65 includes features similar to claim 1 and the analysis above regarding claim 1 is equally applicable to claim 65.

Claim 62 was rejected as unpatentable over KATO in view of AT-307 and KAWAMURA and further in view of KANDA 4,886,340. That rejection is respectfully traversed.

KANDA is only cited for the disclosure of a tilting element. KANDA does not disclose what is recited in claim 1. As set forth above, KATO in view of KAWAMURA and AT-307 does not disclose what is recited in claim 1. Since claim 62 depends from claim 1 and further defines the invention, the proposed combination of references would not have been sufficient to render obvious claim 62.

Claim 1 was previously indicated as generic. Since claim 1 is believed allowable and is generic, withdrawn claims 6-61 should also be considered and allowed.


In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional
fees required under 37 C.F.R. \$1.16 or under 37 C.F.R.\$1.17.

Respectfully submitted,

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